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14

15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF ARIZONA

17 United States of America,

CR-18-00422-PHX-SMB

19 Plaintiff,
20 vs.

**UNITED STATES' NOTICE OF
REBUTTAL EXPERT WITNESSES**

21 Michael Lacey, et al.,

22 Defendants.

24 Pursuant to Rules 702, 703, 704 and 705, Fed. R. Evid., the following witnesses may
25 give testimony that might be construed as falling within the purview of these rules of
26 evidence. Through discovery and subsequent disclosures, specific reports and analyses have
27 been or will be directed to Defendants regarding the specific nature of the expected
28 testimony, if any, to be given by these individuals. To the extent not previously disclosed in

1 discovery, subsequent disclosures to Defendants will isolate the reports, analyses, summaries
2 and other findings associated with any potential expert testimony. This notice is meant
3 merely as a broader initial overview of the individuals and subjects the government may seek
4 to present evidence of by way of expert testimony.

5 **1. Special Agent Brian Fichtner, California Department of Justice: Operation of**
6 **Backpage's Website**

7 Special Agent Brian Fichtner has been a law enforcement officer with the California
8 Department of Justice (CalDOJ) since 1998. From February 2012 to April 2017, he served
9 in the CalDOJ Bureau of Investigation eCrime Unit. Special Agent Fichtner and his
10 colleagues conducted undercover online operations concerning the placement of ads on
11 Backpage. Special Agent Fichtner prepared reports and made contemporaneous video
12 recordings of his interactions with the Backpage website, and he also spoke with Backpage
13 representatives, including Carl Ferrer and Elizabeth McDougal.

14 Special Agent Fichtner will provide testimony at trial about how the Sacramento area
15 section of www.Backpage.com (Backpage) looked and operated, about the process for
16 posting ads in the “adult”/“escorts” and non-“adult” sections of Backpage, and about the
17 types of undercover investigations that CalDOJ performed relating to Backpage, including
18 responses he and his colleagues received from the placement of undercover ads. He will
19 testify about his observations regarding the website consistent with the reports he prepared
20 and the evidence he gathered concerning those investigations, including video recordings
21 and screen captures showing the website’s operations. He is expected to testify consistent
22 with the investigative reports that he prepared.

23 While the government does not believe that Special Agent Fichtner’s testimony will
24 involve any opinion testimony, it includes his information in this Notice out of an abundance
25 of caution and in the event that any of any his testimony is deemed to constitute expert
26 opinion testimony. His opinions are based on his training and experience in the area of
27 eCrime and electronic evidence gathering. His curriculum vitae is attached as Exhibit A.
28 The government will also separately provide the defense with copies of reports that Special

1 Agent Fichtner authored regarding his investigative work concerning Backpage when he was
2 assigned to the CalDOJ eCrime Unit.

3 **2. Lieutenant Detective Donna Gavin, Boston Police Department:**
4 **Prostitution/Human Trafficking/Child Sex Trafficking Expert**

5 From July 2009 to October 2016, Lieutenant Detective Donna Gavin served as a
6 Sergeant Detective/Commander of the Boston Police Department's Human Trafficking Unit.
7 She later served, from May 2016 to April 2019, as the Lieutenant Detective for the Boston
8 Police Department's Crimes Against Children and Human Trafficking Units. She has
9 extensive experience investigating prostitution, human trafficking and child sex trafficking
10 crimes involving victims who were advertised on Backpage. On August 13, 2015,
11 Lieutenant Detective Gavin provided a declaration in the Northern District of Illinois that
12 described Backpage's role in the Boston-area sex trade. Lieutenant Detective Gavin is
13 expected to testify consistent with her August 13, 2015 declaration, and will provide
14 additional relevant details about Backpage's operations in the Boston area. She is also
15 expected to testify that, in her professional experience as a law enforcement officer for over
16 30 years, the "adult" section of Backpage not only contained ads for illegal activity, including
17 prostitution, solicitation and trafficking, but it was also the primary source for such ads and
18 was well known for that purpose in the sex trafficking industry in Boston, Massachusetts,
19 until the site was shut down in 2018. Further, Lieutenant Detective Gavin is expected to
20 testify that Backpage "adult" section provided a vehicle and anonymity for its users who
21 exploited and trafficked young women and girls, that it provided no legitimate service and
22 that nearly all the cases the Boston Police Department's Human Trafficking Unit found
23 associated with Backpage involved pimp-controlled prostitution.

24 While the government does not believe that Lieutenant Detective Gavin's testimony
25 will involve any opinion testimony, it provides this information out of an abundance of
26 caution and in the event that any of any her testimony is deemed to constitute expert opinion
27 testimony. Lieutenant Detective Gavin's opinions are based on her training and experience
28 in the areas of human trafficking, crimes against children and sexual assault. Lieutenant

1 Detective Gavin's curriculum vitae is attached as Exhibit B.

2 **3. Detective-Sergeant Thomas Adam Umporowicz Jr., Seattle Police Department**
 3 **Vice/High Risk Victims Unit and Human Trafficking Task Force:**
 4 **Prostitution/Human Trafficking/Child Sex Trafficking Expert**

5 Detective-Sergeant Thomas Adam Umporowicz Jr. is the Detective-Sergeant in
 6 charge of the Seattle Police Department's Vice/High Risk Victims Unit, a position that he
 7 has held since 2014. He has also served as the Human Trafficking Task Force Sergeant for
 8 the Seattle Police Department. He has more than 30 years of law enforcement experience,
 9 and has trained other law enforcement agencies in the United States in the areas of human
 10 trafficking and internet crimes against children.

11 On August 14, 2015, Detective-Sergeant Umporowicz provided a declaration that was
 12 filed in the Northern District of Illinois. The declaration described Backpage as the primary
 13 website in the Seattle, Washington area for those looking to solicit a prostitute, post
 14 prostitution ads or traffic prostitutes and minors. In the declaration, Detective-Sergeant
 15 Umporowicz opined that in his professional experience:

16 [T]he adult section of Backpage.com not only contains ads for illegal activity,
 17 including prostitution, solicitation and trafficking, but it is a primary source
 18 for such ads and is well known for that purpose in the sex trafficking industry
 19 in the city of Seattle and State of Washington. But the way Backpage.com
 20 operates and the anonymity it provides its users makes it more difficult for us
 21 to identify and arrest and prosecute these offenders. It is the Seattle Police
 22 Department Vice/High Risk Victims Unit position that removing the adult
 23 section of Backpage.com would greatly assist to disrupt these sex traffickers'
 24 easy means of communication and connection for these illegal activities and
 25 therefore would reduce demand for, and access to, the sex trafficking industry
 26 within the city of Seattle and the State of Washington. This would be useful
 27 in protecting the women and children who are victimized by those numerous
 28 individuals who use Backpage.com for these unlawful purposes. In our
 experience, the adult section of Backpage.com seems to serve no legal
 purpose.

29 Detective-Sergeant Umprowicz is expected to testify consistent with his declaration,
 30 and is expected to provide other pertinent details and observations about Backpage's
 31 operations in the Seattle area through Backpage's closure in 2018. He is also expected to
 32 testify about the evolution of prostitution and human trafficking in the Seattle area from the
 33 pre-internet era through the rise of Backpage to the post-Backpage era. He will explain how

1 the ease-of-use, convenience and relative anonymity of using Backpage (both as a “john”
 2 and as a prostitute or pimp) increased the demand for prostitution services and the supply of
 3 persons who were advertised as prostitutes. He is expected to testify that Backpage
 4 established a near-monopoly on online prostitution advertising in the Seattle area. He will
 5 also explain how, following Backpage’s shutdown, the sex trade has partly reverted to street-
 6 level prostitution (in hotel lobbies, casinos and on the streets), which has reduced demand
 7 and supply and seriously disrupted the sex trade in the Seattle area. He will also explain
 8 that Backpage was continually put on notice by law enforcement of its facilitation of
 9 prostitution through the issuance of search warrants and subpoenas across the country.

10 Detective-Sergeant Umprowicz’s opinions are based on his training and experience
 11 in the areas of law enforcement, prostitution, and human and child sex trafficking. His
 12 curriculum vitae is attached as Exhibit C.

13 **4. Robert Spectre, Founder and Chief Executive of childsafe.ai: Impact of**
Backpage’s Closure on Online Sex Trafficking and Prostitution

15 In April 2019, Spectre authored the report “Beyond Backpage, Buying and Selling
 16 Sex in The United States One Year Later.”¹ The report summarizes the immediate online
 17 disruption following April 2018 when Backpage was seized and the Stop Enabling Sex
 18 Traffickers Act (SESTA) and Fight Online Sex Trafficking Act (FOSTA) were signed into
 19 law. Spectre’s analysis concluded that since the events in April 2018 (including Backpage’s
 20 shut down), the demand for purchasing sex online has been reduced drastically.

21 Spectre’s background includes tracking online sex trafficking beginning in 2014,
 22 when he was contacted by Polaris (<https://polarisproject.org/human-trafficking/facts>)
 23 through his company twilio.org,a start-up company that developed text (short code)
 24 technology. That technology is utilized by many different businesses, but was also used to
 25

26
 27 ¹ <https://childsafe.ai/beyond-backpage-buying-and-selling-sex-in-the-united-states-one-year-later>

28

1 reach victims of sex trafficking. Since Twilio, Spectre has worked with the Cook County
2 Sheriff's Office and the New York Police Department to develop deterrence platforms
3 focused on combating sex trafficking.

4 In 2017, Spectre, while working with the NYPD's Human Trafficking Unit,
5 developed a demand deterrence platform that focused on the demand side of human
6 trafficking. The platform would capture phone numbers of "johns" who responded to decoy
7 ads posted by NYPD on Backpage. When a decoy ad was posted, approximately 150
8 responses would be captured in a two hour-time frame. Since Backpage was seized,
9 responses have dropped to 20-30 per day, spread among approximately 12 different websites.
10 Spectre's additional qualifications will be provided separately to Defendants.

11 The government reserves the right to question the experts regarding other matters that
12 may be raised during cross-examination by Defendants, based upon testimony provided by
13 defense experts (if any), or other witnesses and evidence introduced by Defendants.

14 Respectfully submitted this 17th day of June, 2019.

15 MICHAEL BAILEY
16 United States Attorney
District of Arizona

17 *s/ Kevin M. Rapp*
18 KEVIN M. RAPP
MARGARET PERLMETER
PETER S. KOZINETS
ANDREW C. STONE
JOHN J. KUCERA
20 Assistant U.S. Attorneys

21 BRIAN BENCZKOWSKI
22 Assistant Attorney General
Criminal Division, U.S. Department of Justice

23 REGINALD E. JONES
24 Senior Trial Attorney
U.S. Department of Justice, Criminal Division
25 Child Exploitation and Obscenity Section

Certificate of Service:

2 I hereby certify that on June 17, 2019, I electronically transmitted the attached document to
3 the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of
Electronic Filing to the CM/ECF registrants who have entered their appearance as counsel
of record.

4

5 s/ Angela Schuetta
6 Angela Schuetta
U.S. Attorney's Office

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Exhibit A

BRIAN C. FICHTNER

OCCUPATION	Special Agent , California Department of Justice, Office of the Attorney General
EDUCATION	B.S. Criminal Justice: January 1991 Minor in Psychology - California State University, Sacramento
EXPERIENCE	Deputy Probation Officer/Assistant, Sacramento County (1991-1998) Youth Detention Facility; Field supervision; Narcotic street team
	Special Agent, California Department of Justice (1998-present) Bureau of Narcotic Enforcement, San Diego: Nov. 1998 – Nov. 2001 -1998-1999 Special Agent Trainee - Clandestine Lab Team/ Commercial/Parcel Interdiction Team Advanced Training Center, Sacramento: Nov. 2001 – Jan. 2004 -Firearms Tactics Instructor / Defensive Tactics Instructor -Special Agent Academy Instructor / DOJ Tactical Cadre member Bureau of Narcotic Enforcement, Sacramento: Jan. 2004 – Feb. 2012 -Clandestine Lab Team / Special Operation Team -Parcel Interdiction Team / Evidence Custodian / Armorer Mountain and Valley Marijuana Invest. Team: Jan. 2010 – Feb. 2012 Narcotic K9 Handler: Aug. 2004 – July 2012 Bureau of Investigation, Sacramento: Feb. 2012 – April 2017 -eCrime Unit (Acting Supervisor March 2014 to Oct. 2014) Bureau of Gambling Control, Sacramento: April 2017 – Present
CERTIFICATES	Advanced Certificate - Specialized Law Enforcement (POST) Academy Instructor Certification Course (POST) Field Training Officer (POST) Firearms / Tactical Shotgun Instructor (POST) Defensive Tactics / ASP Instructor (POST) Armorer
INVESTIGATION	Manufacture and sale of narcotics, asset forfeiture, financial fraud, human trafficking, intellectual property theft, counterfeiting, officer involved shooting, stolen property, money laundering, identity theft, illegal gambling, bookmaking, Tribal casino and cardroom compliance.

Exhibit B

Donna M. Gavin
Boston Police Department

April 2019 to Present:	Lieutenant Detective, Boston Police Academy Co-coordinator CEASE Boston
May 2016 to April 2019:	Lieutenant Detective, Crimes Against Children and Human Trafficking Units Co-coordinator CEASE Boston, Task Force Officer DHS
October 2015 to May 2016:	Lieutenant, Shift Commander Area E-13
July 2009 to October 2015:	Sergeant Detective, Human Trafficking Unit <ul style="list-style-type: none">• Co-Chair, Cities Empowered Against Sexual Exploitation• Steering Committee Member of Support to End Exploitation Now Coalition• Task Force Officer, Department of Homeland Security• Instructor – Presenter on CSEC and HT New England, New York, Washington DC and Canada
January 2008 to July 2009:	Sergeant Detective, Sexual Assault Unit <ul style="list-style-type: none">• Squad Supervisor• Investigations of rape and sexual assaults of adults and children• Case Management and Crime Scene
June 2004 to January 2008:	Sergeant, Patrol Force <ul style="list-style-type: none">• Uniform Shift Street Supervisor• Intermittent Shift Commander
April 1991 to June 2004:	Detective in several units including the Sexual Assault Unit
January 1990 to April 1991:	Police Officer <ul style="list-style-type: none">• Domestic Violence Officer (DVO)
June 1986 to January 1990:	Police Officer <ul style="list-style-type: none">• Patrol officer in City of Boston
Education:	Juris Doctorate, Suffolk University Law School, 2000 BSBA, Suffolk University, 1989
Professional:	Attorney, Massachusetts Board of Bar Overseers # 646949 NAWLEE and MAWLEE Member

Exhibit C

Thomas Adam Umporowicz Jr

Education

Bachelor of Science Degree: City University Seattle

Associate of Arts Degree- Green River Community College

Associate of Applied Science Degree-(Criminal Justice)-Green River Community College

Basic Law Enforcement Training, WSCJTC, June 17 1986

Specialized Training

May 2019: International Association of Human Trafficking Investigators Conference, Clearwater FL

May 2019: World Without Exploitation Conference Washington D.C.

April 2019: International Terrorism and Organized Crime Conference, Hartford, CT

December 2018: Internet Crimes Against Children Training

June 2018: International Terrorism and Organized Crime Conference, Scottsdale, AZ

May 2017: International Association of Human Trafficking Investigators Conference, Clearwater FL

May 2017: International Terrorism and Organized Crime Conference, Orlando FL

February 2017: Surveillance Techniques Course

September 2016: Narcotics, Gangs, Vice & Financial Investigations, Nashville TN

Sergeant Tom Umporowicz, #5574

May 2016:	International Association of Human Trafficking Investigators Conference, Clearwater FL
September 2015:	Investigative Techniques and Digital Evidence in Human Trafficking Investigations
March 2015:	Informant Development and Handling
November 2014:	Undercover Tactics
September 2014:	Human Trafficking Investigation Course, FLETC
August 2014:	Dallas Crimes Against Children Conference
December 2013	Weapon Mounted Light Course
September 2013	Caliber Press Officer Survival Seminar
August 2013	First Level Supervision WSCJTC
May 2013	Anti-Crime Team Training
April 2012	SPD Bicycle Training
March 2012	Demo Management Training
April 2011	Gang Awareness/Prevention Training
March 2011	Advanced Crisis Intervention Training
February 2011	Mobile Field Force Training
December 2009	Recognition & Response: Improvised Explosives
November 2009	Responding to Weapons of Mass destruction
February 2008	Counter-Terrorist Training Techniques for Patrol Officers
October 2007	Advanced Team tactics
August 2004	Police & Law JFK School of Government-Harvard University
March 2004	NCMEC: Responding to Missing and Abducted Children
August 2002	Covert Operations/Tactics School

Sergeant Tom Umporowicz, #5574

March 2001	SPD Criminal Investigations School
April 2001	Forensics Anthropology
November 2000	Caliber Press Officer Survival Seminar
August 2000	Western States Vice Investigators' Conference
April 2000	Crime Scene Investigation Course
March 2000	Undercover Operations School
September 1999	Crisis Intervention Team Training
September 1999	Police Law Institute
March 1999	Weapons of Mass Destruction Training
March 1999	National Association of Field Training Officers Conference
February 1999	Reid Interview/Interrogation School
July 1998	Instructor Development School WSCJTC
March 1998	Police Law Institute
March 1998	National Association of Field Training Officers Conference
November 1996	Caliber Press Officer Survival Seminar
June 1995	Drug Interrogation Training, US Army Intelligence
November 1994	Caliber Press Officer Survival Seminar
September 1994	Surveillance/Vehicle Tailing Techniques Course
March 1994	Seattle Police Community Police Training
June 1993	Seattle Police Anti-Crime Team Training
September 1992	Seattle Police Field Training Officer School
March 1988	Drug Enforcement Training, WSCJTC
February 1987	FBI Street Survival Course

Sergeant Tom Umporowicz, #5574

Seattle Police Department Assignments

May 2014-Present:	Detective-Sergeant, High-Risk Victims Section/Vice Unit and Human Trafficking Lieutenant Jim Fitzgerald
January 2013-May 2014	South Anti-Crime Team Sergeant/Team Leader, Lieutenant Steve Strand.
August 2012-January 2013:	Assigned as 3 rd Watch Robert Sector Sergeant, South Precinct, Lieutenant Mike Magee.
July 4 2012-August 2012:	Promoted to Sergeant, assigned as 2 nd Watch David Bikes Sergeant, West Precinct, Lieutenant Norm James.
April 2011 to July 2012:	Permanent Acting Sergeant, Patrol West Precinct 1 st Watch. Lieutenant Simeon Tamayo, 2 nd Watch David Bike Squad, Lieutenant Norm James.
February 2006 to April 2011:	Patrol Officer, South Precinct 3 rd Watch Sam Sector, Sergeant Eric Zerr.
March 2000 to February 2006:	-Detective, Vice Unit, Sergeants Ariel Vela and James Kelly.
April 1999 to March 2000:	Officer, Ethics and Inspections Section, Chief of Staff's Office, Sergeants Debra Jelcick and Scott Bachler.

Sergeant Tom Umporowicz, #5574

February 1997 to April 1999:	Patrol Officer, South Precinct-3 rd Watch Robert Sector, Sergeant Pierre Davis.
May 1996 to February 1997:	Patrol Officer, South Precinct-1st Watch Sam Sector, Sergeant Richard Duval.
May 1994 to May 1996:	Officer, South Precinct Anti-Crime Team, Sergeants Ariel Vela, Brian Johnson, John 'Jay' Mooney, Dan Beste and Mike Miller.
June 1990 to May 1994:	Patrol Officer, South Precinct-3rd Watch Sam Sector, Sergeants William 'Bill' Abbey and Gary Nelson.

NOTE: Previous Law Enforcement Experience: Everson Police Department, Sumas Police Department and Western Washington University Police Department, 1985-1990.

Additional Assignments Related to Law Enforcement

- Provided training for the Des Moines Police Department, Washington State, at their request regarding undercover operations 2019
- Attended World Without Exploitation Conference, at the request of Cook County Sheriff's Office Illinois to discuss creative ideas for law enforcement to address sex buyers, Washington D.C. 2019
- Member: International Organization of Terrorism, Organized Crime and Asian Organized Crime Investigators 2017-present
- Provided information and direction at the request of the Houston Texas Vice Unit regarding reverse sting operations for prostitution enforcement 2017
- Training presentation for Boston, and other Massachusetts Police Departments regarding reverse sting operations for prostitution investigations at the request of Demand Abolition 2016
- Provided training outline for the King County Sheriff's Department, Washington State, at their request regarding the use of decoy operatives and undercover sting operations for prostitution enforcement 2016
- Provided operational assistance for the Des Moines Police Department, Washington State, at their request regarding online sting operations 2016
- Created and presented a webinar training for Demand Abolition, at their request, to train Law Enforcement Agencies nationwide regarding setting up reverse sting operations for Illicit Massage Parlors, 2016
- Training presentation on investigating Illicit Massage Parlor Investigations, for the International Association of Police Chiefs, at their request, Columbus Ohio
- Member: International Association of Human Trafficking Investigators, 2016-present
- Partnership with Cook County Illinois National Johns Initiative 2014-present
- WASHACT member 2014-present
- Member: International Crisis Intervention Officers, 2011
- Seattle Police Department Patrol Advisory Committee 2009-2011

Sergeant Tom Umporowicz, #5574

- Executive Board: Secretary/Treasurer), Seattle Police Officers' Guild, 2000-2007
- Criminal Justice/Forensics Advisory Committee Board Member: Green River Community College, 1999 to 2006
- Board Member: Seattle Police Officers Guild, 1997 to 2000
- Seattle Police Honor Guard Unit, 1997 to 2001
- Field Training Officer: 1992 to 1999
- Crisis Intervention Team member: 1998 to Present
- Guest speaker, (invitation): Green River Community College Criminal Justice classes and alcohol/addiction treatment centers, Auburn WA 2006, 2007, 2008.

Department Training

Standards met for all mandatory Department training, certifications and qualifications.

Department Contributions

Initiated and successfully completed a Chinese Organized Crime investigation involving 26 illicit massage parlors in Seattle

Created new policies, protocols and revised old policies and protocols for the Seattle Police Vice Unit, 2016-present

Created innovative operations to target sex buyers utilizing reverse-sting operations in illicit massage parlor venues, 2016-2017

Created innovative investigation plans to address high crime areas related to prostitution activity along the Aurora corridor, Seattle Washington 2015

Created and implemented an integrated model for assisting prostituted-victims during enforcement operations, 2014

Assist with coordinating Ant-Crime Team refresher training, 2013

Seattle Police Department Patrol Advisory Committee, March 2009 – 2011

City of Seattle Employee Recognition Committee, April 1997 to January 2001

Sergeant Tom Umporowicz, #5574

Seattle Police Department Performance Evaluation Committee, August 1999 to May 2000.

Seattle Police Department Fallen Officer Memorial Committee, October 1999 to March 2000.

Chairman, Seattle Police Officers' Guild Officer of the Month Committee, April 1997 to January 2001.

Participant in Department oral board interviews, May 1996 to May 2001.

Awards/Recognition

Multiple Commendations: Seattle Police Department 2019

Commendation: Burlington Police Department, Washington State 2018

Commendation: Des Moines Police Department, Washington State 2016

Multiple Commendations: Seattle Police Department 2016

Commendation: Seattle Police Department 2015

Commendation: Seattle Police Department 2014

Service Award: Seattle Police Department 2013

Service Award: Seattle Police Department 2011

South Seattle Crime Prevention Council Officer of the Quarter Award, April, 2009

Service Award: Seattle Police Officers' Guild 2007

Peer/Service Award: Seattle Police Street Vice Unit 2006

South Precinct Officer of the Month Awards: December 1992, May/June 1995

Seattle Police Officers' Guild Officer of the Month Awards: January 1993, May 1994, March 1995 and May 1996.

Sergeant Tom Umporowicz, #5574

Seattle Police Officers' Guild Certificate of Excellence Awards 1997, 1998, 2000

South Precinct Officer of the Year Nomination 1994

Dean's list: City University 2010-2011

Advisory Committee Recognition Award, Green River Community College 2001

Soldier of the Year Award: 1985 USAR 104th Division

Numerous Department/Citizen commendations are available upon request.

Military Service

United States Army - Honorable Discharge

Personal Statement/Interests

I recognize that my primary job as a police officer and leader is to serve others. My professional development, p character and values provide a basis for this service. I have used every experience, positive and negative, my successes and failures throughout my tenure as a Seattle Police Officer as guides and learning lessons. They direct and allow me to serve and lead others more effectively.

My personal interests include:

Language Studies, (French and Latin.) Ancient Civilization/Biblical Eschatology.
Mythology, Esoteric studies, History- (U.S., Military and World), Astronomy, Reading, Travel, Exercise.